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**From:** Mitre, Alfreda [Mitre.Alfreda@epa.gov]  
**Sent:** 6/10/2015 3:11:17 PM  
**To:** Thomas, Deb [thomas.debrah@epa.gov]; O'Connor, Darcy [oconnor.darcy@epa.gov]; McGrath, Shaun [McGrath.Shaun@epa.gov]  
**Subject:** Article today on OST and PowerTech

Native Sun News: Oglala Sioux Tribe vows to protect sacred sites  
Wednesday, June 10, 2015

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*The following story was written and reported by Talli Nauman, Native Sun News Health & Environment Editor. All content © Native Sun News.*



A sign at the Dewey-Burdock mining site in South Dakota.

OST vows to fight to protect sacred sites  
Tribe contends board erred at law and abused its discretion  
By Talli Nauman  
Native Sun News

Health & Environment Editor

WASHINGTON — The Oglala Sioux Tribe filed a petition May 26, indicating it will continue to fight tooth and nail against the Dewey-Burdock uranium mine and mill proposed in the underground water tables 50 miles upstream from the Pine Ridge Indian Reservation in the adjoining South Dakota counties of Custer and Fall River.

The petition appeals to the federal Atomic Safety and Licensing Board (ASLB) to review its April 30 dismissal of the tribal government's contentions in a 6-year-old administrative dispute that challenges licensing of what would be the first solution mining in the state.

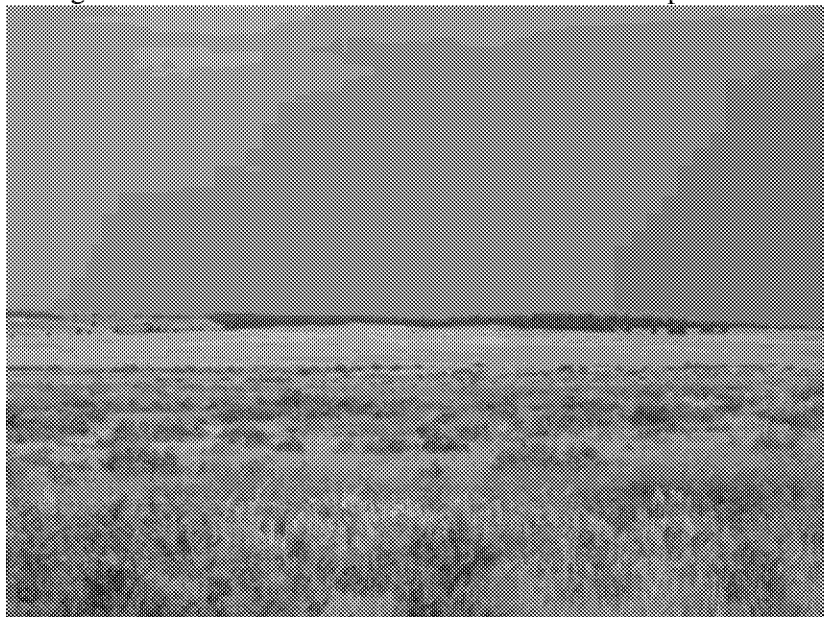
"The board erred at law and abused its discretion," it "misapplied the contention pleading rules" and "simply glossed over" critical matters, in dismissing the arguments, the tribe's attorney Jeffrey Parsons alleged in the petition. His filing was a response to the ASLB ruling a month earlier, which granted the Oglala Sioux's two main contentions but quashed its other five in the case over a 10,580-acre site at which in situ activities would require ceding exclusive water rights to 9,000 gallons per minute of Inyan Kara and Madison Aquifer water to a Canadian company for an indefinite period of years.

The contentions on which the tribe prevailed are that Nuclear Regulatory Commission staff failed to comply with historic preservation and water protection requirements in extending a license for radioactive source material handling to promoters of the project at the site in the southern Black Hills.

Not to be outdone by the tribe, the company, Canada-based Azarga Uranium Corp. (formerly Powertech Uranium Corp.), petitioned the board for reversal of the decision to accept the tribal arguments.

The corporation requested that the ASLB retract its order for the commission staff to conduct government-to-government consultation with the Oglala Sioux Tribe regarding cultural properties.

ASLB had found that the staff analysis “has not adequately addressed the environmental effects of the Dewey-Burdock project on Native American cultural, religious, and historic resources, and the required meaningful consultation between the Oglala Sioux Tribe and the NRC Staff has not taken place.”



The Dewey-Burdock site at the headwaters of the Cheyenne River 50 miles from the Pine Ridge Reservation is proposed as the first site for mining uranium in South Dakota’s underground water table. Photo courtesy [Azarga Uranium Corp.](#)

Azarga also asked the oversight panel to rescind its order for the company to button up the unsealed shafts remaining from previous uranium mining at the site.

The panel had ordered that “prior to conducting tests for a well field data package, the licensee will attempt to locate and properly abandon all historic drill holes.”

The corporation requested “expedited review” of its appeal “due to the immediate short-term and potentially long-term harm to Powertech due to this ruling.”

The tribe is among several interveners, including local non-profit organizations and ranchers living near the project site, who are formally admitted in the case hearing process.

The NRC staff blamed the tribe for any problems associated with settling cultural heritage issues. In the time elapsed since the board ruling that is being appealed, the agency employees have submitted a 28-page list of questions challenging the interveners’ arguments.

The staff contends that the board “exceeded its authority in its decision to order that staff initiate government-to-government consultation. Staff counsel said the oversight panel “completely ignores critical facts in the administrative record that ... the tribe was adequately consulted by NRC staff under the National Historic Preservation Act and bears the burden of responsibility for any alleged breakdown in consultation.”

The board noted in its decision that it could have suspended the license on the grounds of staff failure to consult, however, it said, it “declines to do so because the Oglala Sioux Tribe bears some responsibility for lack of information on this issue, and did not participate in the April 2013 field survey effort.”

Letting stand the Record of Decision on the licensing, the ASLB panel noted: “An opportunity is being provided for the Oglala Sioux Tribe and the NRC staff to consult in a meaningful manner as the project moves forward.

“If the Oglala Sioux Tribe refuses to engage in a meaningful consultation or makes unreasonable demands as a precondition for its cooperation in identifying cultural, historic or religious sites, such actions would be fundamentally unfair to the NRC Staff, Powertech, and incompatible with an orderly administrative process,” it warned. “All parties have an obligation to cooperate to resolve these contentions.”

The tribe argued in its appeal that letting stand the Record of Decision and licensing “is contrary to the statutory requirement that ... compliance precede and inform the agency action.” It cited the National Environmental Protection Act and the National Historic Preservation Act.

(Contact Talli Nauman Native Sun News Health and Environment editor at [talli.nauman@gmail.com](mailto:talli.nauman@gmail.com))

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Alfreda L. Mitre | Director, Tribal Assistance Program | 303.312.6343  
1595 Wynkoop | Denver, CO | 80202